

# Whale Plan Update

National Marine Fisheries Service/Northeast

May 2000 (vol.1 no.2)

## TRT To Discuss Dynamic Management

### Northeast Sub-Group To Meet in Danvers May 23-24

A sub-group of the Atlantic Large Whale Take Reduction Team is scheduled to meet May 23-24 in Danvers, Mass., to discuss a whale protection strategy known as dynamic management and the team's recommendations for gear modification.

The Atlantic Large Whale Take Reduction Plan published February 16, 1999 includes gear modifications and seasonal closures of critical habitat. The plan also includes some dynamic management required closures of critical habitat if a right whale is seriously injured or killed and if the whale was entangled in gear that was permitted in those areas. The TRT has been asked to consider adding other dynamic management measures to the existing whale protection measures.

The service believes that the development of whale-safe gear is the long-term solution to reducing entanglements. Research into safer gear is ongoing, but in the meantime NMFS may have to take additional actions to protect the critically endangered right whales, according to Chris Mantzaris, chief of the NMFS Protected Resources Division for the Northeast.

The May 23-24 TRT meeting is the third in a series of meetings devoted to revising and improving the whale TRP (the others were held February 22-24 in Danvers and April 11 in Gloucester). The team discussed dynamic management at the April 11 meeting but did not reach consensus on adding new dynamic management measures to the existing plan.

The agenda for the May 23-24 meeting also includes a review of gear modification recommendations developed by the TRT in February.

In order to put new gear measures in place as quickly as possible,

#### In this issue...

Northeast Sub-Group To Meet in Danvers May 23-24 . . . . .	1
TRT Sub-Divided by Region . . . . .	2
ESA Update . . . . .	3
Lawsuit Update . . . . .	4
Lobstermen, Mass. Officials and IFAW Tackle Ghost Gear Problem . .	4
Gear Research Update . . . . .	5
SAS Flight Highlights . . . . .	6
Two Entanglements Reported in May . . . . .	7
Clarification . . . . .	7
Right Whale Reproduction Workshop . . . . .	8
Call To Readers . . . . .	8
Next Meeting . . . . .	8



NMFS intends to publish gear revisions as an Interim Final Rule. Under an IFR, the new gear measures would be published by late summer or early autumn. The TRT will need to discuss the timing of implementation of those gear modifications.

## TRT Sub-Divided by Region

On May 11 NMFS proposed splitting the Atlantic Large Whale Take Reduction Team into two components: a Northeast component that extends from Maine through Rhode Island and a Southeast component that extends from Rhode Island to Florida. NMFS suggested using a demarcation line of 72 degrees 30 minutes west longitude.

NMFS is proposing the sub-division because (1) the team is large and (2) some of the issues it deals with are different in New England and Mid-Atlantic waters. The new organization is an attempt to make better use of people's time. Anyone on the team is welcome to attend any TRT meetings, although for sub-group meetings financial support may be offered only to the sub-group members.

The sub-groups, like the original team, are intended to represent a variety of interests and expertise. Suggestions about potential future members should be directed to Chris Mantzaris.

Members of the TRT sub-groups are:

### Northeast Large Whale TRT Component

#### Representatives from the Fishing Industry:

Bill Adler Massachusetts Lobstermen Assn.  
Gary Ostrum Massachusetts Bay lobstermen (new)

Bonnie Spinazolla Atlantic Offshore Lobstermen's Association  
Jeff Jordan Rhode Island lobsterman (new)  
Leroy Bridges Downeast Lobstermen's Association  
Pat White Maine Inshore Lobstermen Association  
John Our or Stuart Tolley Cape Cod Gillnetters Association  
Bob Nud New Hampshire gillnetter (new)  
Peter Innis Maine gillnetter  
Bill Mackintosh Rhode Island lobsterman/gillnetter

#### State Representatives:

April Valliere Rhode Island state representative  
Terry Stockwell Maine state representative  
Dan McKiernan Mass. state representative

#### Representative from Conservation, Science and Academic Organizations:

Jack Finn Dept. of Natural Resources and Conservation University of Massachusetts  
Robert Kenney University of Rhode Island, Graduate School of Oceanography  
Amy Knowlton or Scott Kraus - New England Aquarium  
David Mattila Center for Coastal Studies  
Charles Mayo Center for Coastal Studies  
Dave Wiley Center for Coastal Studies  
Nina Young - Center for Marine Conservation  
Sharon Young - Humane Society of the United States  
Mason Weinrich - Cetacean Research Unit  
David Laist Marine Mammal Commission  
Jeff Goodyear

#### Federal Representatives:

Chris Mantzaris NE Regional Office  
Doug Beach NE Regional Office  
Richard Merrick NEFSC  
Phil Clappham NEFSC  
Greg Silber NMFS's HQ Office  
Pat Fiorelli New England Fisheries Management Council

Kate Van Dine Studds Stellwagen National  
Marine Sanctuary

**Southeast and Mid-Atlantic Large Whale  
TRT Component**

Representatives from the Fishing Industry:

Mike Baker Southeast shark gillnetter  
Rusty Hudson Florida shark gillnet  
representative  
Bill Foster Mid-Atlantic coastal gillnet  
industry  
Chris Hickman Mid-Atlantic coastal gillnetter  
Jim Brindley gillnetter/Viking Village,  
Alternative Member Rick Marks  
Bonnie Spinazolla Atlantic Offshore  
Lobstermen s Association

State Representatives:

Fentress Mudén North Carolina Division of  
Marine Fisheries  
Bill Outten Maryland Department of Natural  
Resources  
Bruce Halgren New Jersey Fish and Wildlife  
Division (new)  
Lewis Gillingham Virginia Marine Resources  
Commission  
Barbara Zoodsman Georgia Department of  
Natural Resources  
Kipp Frohlich Florida Fish and Wildlife  
Conservation Commission

Representatives from Conservation, Science and  
Academic Organizations:

Mark Swingle - Virginia Marine Science  
Museum, Alternative Member Sue Barco  
Hans Neuhauser Georgia Environmental Policy  
Institute  
Robert Kenney URI, Graduate School of  
Oceanography  
Amy Knowlton or Scott Kraus NEA  
David Mattila Center for Coastal Studies  
Nina Young Center for Marine Conservation  
Sharon Young Humane Society of the United  
States

David Laist Marine Mammal Commission

Federal Representatives:

Chris Mantzaris or Doug Beach NMFS/NER  
Greg Silber NMFS HQ  
Kathy Wang NMFS SER  
Rich Seagraves Mid-Atlantic Fishery  
Management Council  
Robert Mahood or Kerry O Mally - South  
Atlantic Fishery Management Council  
Steve Swartz - SEFSC

## ESA Update

While the Take Reduction Team is reviewing the whale TRP developed under the Marine Mammal Protection Act, the National Marine Fisheries Service is also reviewing whale protection measures under the Endangered Species Act.

The MMPA requires a plan to reduce human-caused mortalities and serious injuries to a level approaching zero. The ESA requires a review to determine whether federally authorized activities (such as fishing) are likely jeopardize the existence of any endangered species. Where a review (or consultation ) leads to a jeopardy finding, the permitting agency must identify a reasonable and prudent alternative that avoids jeopardizing the species.

In an earlier review (in 1997), it was determined that five federally authorized fisheries (multispecies, monkfish, dogfish, herring, and lobster) jeopardized the continued existence of North Atlantic right whales. Those fisheries were allowed to continue to operate when it was determined that the large whale TRP developed

under the MMPA was sufficient to remove the jeopardy.

When new data in 2000 indicated the status of right whales has worsened, NMFS reinitiated consultation to see whether any federally authorized fisheries are jeopardizing the continued existence of North Atlantic right whales. If there is a jeopardy finding, the service will determine whether the revised TRP is sufficient to remove the jeopardy. If the TRP were to be found insufficient under the ESA, NMFS could be required to take additional whale protection measures under the ESA.

(NMFS can implement whale protection measures under the MMPA and/or the ESA).

In the current consultation, NMFS Northeast Region Protected Resources Division is awaiting updated information and analysis from the Sustainable Fisheries Division. When the NE Protected Resources Division receives that information, it will prepare a Biological Opinion on the impact of federally permitted fisheries on right whales. When that document is completed, the Northeast Regional Administrator will submit a recommendation to the NMFS Office of Protected Resources in Silver Springs. That office will in turn submit a recommendation to the NMFS administrator, and she will determine whether there is jeopardy and if there is, whether there is a reasonable and prudent alternative that would allow NMFS to continue to authorize the fisheries in question.

The ESA consultation process is expected to be completed before the end of the summer.

## Lawsuit Update

**R**ichard Max Strahan filed suit May 1 in U.S. District Court in Portland, Maine. The suit names the State of

Maine, NMFS, the Department of Commerce, Maine Department of Marine Resources, and various individuals as defendants. The suit alleges violations of the ESA and the MMPA, and asks, among other things, for an order enjoining the licensing or regulating of any gear until it is scientifically shown not to entangle or incidentally kill or seriously injure EPA-listed whales and sea turtles. The suit also asks that the defendants be ordered to pay \$100 million over ten years to the plaintiff for an artificial propagation program to recover right whales.

Two organizations that filed notices of intent to sue in March have indicated to NMFS that they do not intend to file suit at this time.

## Lobstermen, Mass. Officials and IFAW Tackle Ghost Gear Problem

By Dan McKiernan

**S**ome Cape Cod Bay lobstermen did some cleaning-up of the Critical Habitat in late April and early May. Funded by IFAW and overseen by state biologists and environmental police, lobstermen retrieved hundreds of traps, all with vertical buoy lines, that were lost or abandoned.

Cape Cod Bay is relatively gear-free during winter and spring; total lobster pots in the bay drop from about 80,000 in the summer months to just a few hundred or thousands in the winter when right whales take up residence. Though gillnetters are prohibited from January 1 through May 15, lobster pots are allowed as long as the buoy lines are rigged with a 500-lb. breakaway; lines between pots (ground-line) are sinking line; and pots are set in multiple pot strings to reduce buoy lines.

Ghost gear is a term used on the waterfront to describe untended or lost fishing gear that continues to fish. Passive gears such as gillnets and lobster traps will capture fish and crustacean as long as the gear remains intact. Fishermen have feared that ghost gear can entangle whales and they fear closures or additional restrictions if a whale ever suffered serious injury or mortality in lost or abandoned gear.

DMF's regulations were carefully crafted to allow lost or abandoned gear to be identified. All gear that is set in the Critical Habitat must comply with the regulations and be flagged with twin orange markers. These flag-like strips are mandated in addition to the other gear-marking requirements. Any gear not bearing this winter-time marks can be assumed to be non-compliant and abandoned.

The Gear Removal Program was organized by lobstermen and state officials to remove all non-compliant gear from the Bay. IFAW pledged up to \$12,000 to local fishermen to pay for their vessel and time to haul, remove, and store gear with state oversight.

The Bay was divided up into zones and local fishermen were assigned to patrol the area they normally fish. The program capitalized on fishermen's local knowledge of gear and fishing locations. Most of the gear hauled was returned to its owners. Only when the owner could not be identified or the gear was found to be in violation of other lobster conservation rules (e.g. trap tags, vent size) was the gear secured and stored for further investigations. State Environmental Police were assigned to each vessel since it is unlawful for anyone to tamper with or seize another's gear.

The Cape Cod Bay Ghost Gear Removal Project focused on removing all lost or abandoned traps and lines from the water. This past winter researchers monitoring right whales in Cape Cod

Bay observed right whales in the presence of fixed gear. DMF and state environmental police investigated the gear on numerous days and found three types of non-compliant gear: lost traps, abandoned traps, and non-compliant gear fishermen knowingly left in the water and occasionally fished. The lost traps were the classic ghost gear laden with months of biological growth on the buoy, line, and trap. When fishermen were contacted about the gear they had presumed the trap was lost or stolen. Most of these lost traps were scattered with just one or a few traps attributable to each fisherman identified. Abandoned gear was identified in two cases where fishermen could not remove their gear from the water (or modify it) before January 1 due to health or personal reasons. In these cases hundreds of pots were left in clusters by the fisherman.

Finally, some non-compliant gear was seen in deep portions of Cape Cod Bay and some of this gear appears to be occasionally fished while some may be in winter storage. Many fishermen reported they were not aware or confused about the current rules.

This pilot program was a success. Next January state officials and lobstermen will set out again to remove any lost, abandoned, and otherwise non-compliant gear from the Bay to avoid the next entanglement. This partnership of lobstermen and state officials allows the job to be completed quickly. Since the state is not well equipped to haul fixed gear, who's better equipped than the local fleet? DMF hopes the Bay can be free of non-compliant gear by January 15, 2001.

## Gear Research Update

Nearly two miles of neutrally buoyant line is being tested in waters from Rhode Island to Canada, reports

Glenn Salvador, the NMFS whale plan coordinator in Maine. Earlier this month, Salvador and videographer Hoyt Peckham (Brunswick, Maine) shot underwater video footage of the neutrally buoyant line being used on Pat White's lobster gear off York, Maine.

Salvador plans to show the video when he reports on neutrally buoyant line and other ongoing gear research projects at the May 23-34 TRT meeting in Danvers.

The testing of neutrally buoyant line grew out of recommendations made by the TRT at its February meeting. The NMFS gear research team bought the line in April and gave it to lobstermen. The line is being tested as an alternative to sinking line, which can chafe and part. Floating line avoids the chafing problem but it can entangle diving whales. The hope is the neutrally buoyant line will stay off the bottom but will not float up high enough that whales encounter it. The line is currently being tested by TRT members Pat White and LeRoy Bridges, other lobster zone council representatives, some Rhode Island lobstermen, and Canadian lobstermen who fish out of Digby, N.S.

The Canadian fishermen became involved when Salvador met in April with gillnetters from Nova Scotia to talk about tests of weak links, anchoring systems, and load cells that measure strain on gear. That project is being funded by a East Coast Ecosystems, a Canadian non-governmental organization. One of the five Nova Scotian gillnetters involved in those tests is also a lobster fisherman, and he agreed to test the neutrally buoyant line.

The neutrally buoyant line is one of four ideas recommended for further testing by the TRT in February. The team also asked for tests on weak links and for continued work on measuring the strain on fishing gear. NMFS gear researchers

and the fishing industry are pursuing both those lines of research.

Salvador said an off shore lobsterman had a load cell on his gear in March and April. Another load cell has been attached to lobster gear set in canyons south of Nantucket. NMFS is preparing a test of weak links in gillnet float line and a study of the force needed to break that gear with and without anchoring systems. In another test, gear researchers are building gillnets with 200-pound lead lines and other experimental nets with 65-pound lead lines.

The fourth gear idea suggested in February TRT involved liposoluble line that would decompose over time if it became wrapped around a whale. The NMFS gear research team views this as a sophisticated project that could require expertise in biology, whale behavior, chemistry, fishing gear, and possibly other areas. NMFS is currently preparing a Request for Proposals (RFP) in order to identify a group to take the lead on this project.

## SAS Flight Highlights

**S**ighting Advisory System coordinator Pat Gerrior offers the following highlights of the SAS flights since the last Whale Update newsletter was published in April.

a comprehensive survey of the Great South Channel on 3 May, involving three planes (from SAS, the NEFSC's Protected Species Branch, and Massachusetts/Center for Coastal Studies)

~40 right whales located 3 May in north central section of GSC

entangled humpback whale sighted off

the Chatham / BC buoy area on 3 flights by SAS plane (sighted April 25 and 28 and May 6)

humpback entanglement appeared to be line around caudal peduncle area (tail stock); whale appeared to be pretty lethargic on 6 May; no buoys or floats visible from air

one entangled right whale sighted on Wilkinson Basin by NMFS NEFSC aircraft on May 8 (NEFSC conducts marine mammal surveys independent of the SAS right whale sighting by the NEFSC surveys are reported to mariners via the SAS)

NMFS SAS plane provided aerial support to CCS disentanglement team who put satellite tag on gear trailing the entangled whale spotted by the NEFSC survey (the tag later fell off)

NMFS SAS surveyed on Platt's Bank on April 11 no right whales sighted

Providence Journal reporter and photographer flew with NMFS SAS May 4 during this trip the aircraft diverted twice for floating large whales; (1) a sperm whale southeast of Nantucket (2) a fin whale on northern edge Georges Bank; cause of death not apparent from air

press interest in the SAS whale spotting flights is high newspaper and radio reporters from Maine to New Jersey have asked to go aloft; press is being accommodated on a first-come-first served basis whenever room is available on a flight.

## Two Entanglements Reported in May

The most recent sighting of a right whale entangled in gear occurred May 8 when a Northeast Fisheries Science Center aerial survey crew spotted an animal (later identified as #1167) near Wilkinson Basin with line and a red buoy trailing. A CCS disentanglement crew attached a telemetry buoy the same day. The buoy later became detached and was retrieved by CCS on May 12 approximately eight nautical miles from where it was deployed.

A whale watch vessel reported an entangled humpback whale on Southern Stellwagen Bank the afternoon of May 12. The vessel did not stand by and the disentanglement team was not able to re-sight this whale.

The CCS disentanglement web site now has information posted on nine whale entanglements first sighted in 2000. Three of the whales listed are right whales. CCS maintains this informational web site (the Disentanglement Network Update) as an electronic newsletter for members of the Large Whale Disentanglement Network. TRT members who want access to the site can contact Bob Bowman at: [bbowman@acadia.net](mailto:bbowman@acadia.net)

## Clarification

A TRT member pointed out that an article in the first issue of this newsletter (Whale Plan Update) describing the TRT's February 2000 gear recommendations differed on one point from a draft summary prepared by meeting facilitator Abby Dilley. Specifically, an article titled

NMFS Preparing Whale Take Reduction Plan Revisions stated that the TRT recommended that all lobster gear in federal waters in New England would be free of knots in the buoy line. The TRT member pointed out correctly that Dilley's summary of the meeting showed the TRT recommended that the buoy lines be as knot-free as possible.

NMFS publishes this newsletter to provide short summaries of issues of interest to the TRT. In situations where statements in the newsletter differ from other documents (such as Federal Register publications or documents prepared for the TRT by NMFS or the facilitator), the other documents take precedence.

## Right Whale Reproduction Workshop

**O**n April 26-28, the Northeast Fisheries Science Center convened a three-day invitational workshop in Falmouth, Massachusetts to discuss possible causes what appears to be reproductive failure in North Atlantic right whales. In recent years, the reproductive rate of this population has been about half that of recovering right whale stocks in the southern hemisphere. Workshop participants were chosen from a range of disciplines, and most brought to the meeting considerable experience with other mammals. The workshop was funded by NEFSC and by the International Fund for Animal Welfare.

Some explanations that have been suggested for the decline in reproduction include inbreeding (genetics), contaminants, food limitation, infectious disease, biotoxins, and stress. Workshop participants critically examined each of these possibilities, drawing on knowledge from relevant disciplines as well as research on other mammal populations. Although no

conclusions were reached with regard to the cause of the observed decline in North Atlantic right whale reproduction, a series of recommendations was formulated to guide future research in this area. These recommendations will form the basis for allocation of funding for reproduction studies under the current NMFS spending plan for this population.

## Call To Readers

**T**his newsletter is intended to provide information to the Atlantic Large Whale Take Reduction Team. If there is information you need and are not getting, please let us know. Direct your requests and suggestions to Chris Mantzaris ([chris.mantzaris@noaa.gov](mailto:chris.mantzaris@noaa.gov)) (978-281-9328) or George Liles ([george.liles@noaa.gov](mailto:george.liles@noaa.gov)) (508 495-2378).

## Next Meeting

**T**he Northeast Component of the Atlantic Large Whale Take Reduction Team will meet May 23 at 8:30 a.m. at the Sheraton Ferncroft in Danvers, Massachusetts (where the February meeting was held). The meeting is scheduled to adjourn May 24 at 4:00 p.m.

All ALWTRT members are invited, but financial support can be provided only for those listed on the preliminary list of the Northeast Large Whale TRT Component, circulated by the NMFS on May 11th. A draft agenda can be viewed at the Whale TRP web site (<http://www.nero.nmfs.gov/whaletrp/>).





